

## REMARKS

Appellant respectfully requests the Examiner's entry of this Amendment After Final prior to the Board's consideration of the accompanying Appeal Brief.

Although no rejection was cited with respect to U.S. Patent No. 6,157,716 of Ortel ("Ortel"), appellant submits that this amendment would resolve issues that might otherwise be raised after allowance even if appellant prevails in the accompanying appeal.

Ortel was first cited by the Examiner in the Final Office Action dated October 18, 2006 but the Examiner did not base any rejections on Ortel. Appellant submits that if the amendment is not made, a subsequent rejection could be made with respect to claim 13 based upon Ortel even if appellant prevails in the appeal based upon the present rejections. Appellant notes that the amendment further narrows the subject matter of claim 13, but does not affect any arguments being presented with respect to the current set of rejections.

Appellant thus submits that there is a good and sufficient reason why this amendment is necessary, why this amendment was not earlier presented, and why this amendment should be admitted now. Appellant believes that entry of this amendment would eliminate an issue that might otherwise be introduced during or after the appeal.

### Summary of Amendments

Claim 13 was amended to add a constraint on the relationship between  $I_{THH}$  and  $I_{THL}$ . Previously, the claim language required  $I_{THH}$  and  $I_{THL}$  to be distinct. The present amendment requiring  $I_{THH} > I_{THL}$  *preserves the prior constraint of distinctness while adding an additional relationship constraint* between  $I_{THH}$  and  $I_{THL}$ . Support for the amendment may be found, for example, at Figure 3. Appellant submits that the claim amendment does not add new matter.

## Conclusion

Appellant respectfully requests notification of the entry or non-entry, as the case may be, of this Amendment After Final.

If there are any issues that can be resolved by telephone conference, the Examiner is respectfully requested to contact the undersigned at (512) 858-9910.

Respectfully submitted,

September 24, 2007  
Date

William D. Davis  
William D. Davis  
Reg. No. 38,428